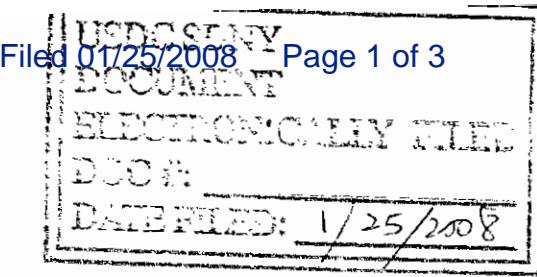


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

----- X
ANDY BRADLEY,



Petitioner,

- against -

07 Civ. 9466 (DAB) (KNF)
ADOPTION OF REPORT
AND RECOMMENDATION

THE PEOPLE OF THE STATE
OF NEW YORK,

Respondent.

----- X
DEBORAH A. BATTS, United States District Judge.

This matter is before the Court upon the November 16, 2007 Report and Recommendation of United States Magistrate Judge Kevin N. Fox. The Report and Recommendation recommends that Petitioner Andy Bradley's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 be denied by the Court sua sponte because it was not timely filed under 28 U.S.C. § 2244(d)(1). The Court granted Petitioner leave to file objections no later than January 22, 2008. Petitioner filed an Objection styled as an Affirmation in Opposition and an application for appointment of counsel.

The District Court is required under 28 U.S.C. § 636(b)(1)(C) to make a "de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." Where no timely objection has been made, or where a party only raises general objections, "a district court need only satisfy itself there is no clear error

on the face of the record." Nelson v. Smith, 618 F. Supp. 1186, 1189 (S.D.N.Y. 1985). After conducting the appropriate level of review, the Court may then accept, reject, or modify, in whole or in part, the findings or recommendations made by the Magistrate Judge. 28 U.S.C. § 636(b)(1)(C); see also Local Civil Rule 72.1(d).

The Report and Recommendation reached a fairly straightforward conclusion in finding that the instant habeas corpus Petition is untimely, pursuant to 28 U.S.C. § 2244(d)(1). Petitioner's objection provides no reason to doubt the correctness of the Magistrate Judge's finding. As such, there is also no need to appoint Petitioner counsel in this matter.

Accordingly, having reviewed the Report and Recommendation and the record herein de novo, it is hereby ORDERED AND ADJUDGED as follows:

1. The Report and Recommendation of United States Magistrate Judge Judge Kevin N. Fox dated November 16, 2007, be and the same hereby is approved, adopted, and ratified by the Court;

2. Petitioner's motion for an appointment of counsel is DENIED; and

3. The instant Petition for a writ of habeas corpus,

pursuant to 28 U.S.C. § 2254 is hereby DISMISSED. As petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. See 28 U.S.C. § 2253; Lozada v. United States, 107 F.3d 1011 (2d Cir. 1997). The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith. See Coppedge v. United States, 369 U.S. 438 (1962). The Clerk of Court is directed to close the docket in this case. SO ORDERED.

Dated: New York, New York

January 21, 2008

Deborah A. Batts
DEBORAH A. BATTS
United States District Judge